

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

TEMPUR-PEDIC INTERNATIONAL, INC.,

Plaintiff,

-against-

BROCO SUPPLY, INC.; ERIC VOLOVIC;
HOWARD HIRSCH; THOMAS SCARCELLO;
NELSON SILVA; CLOSE OUT SURPLUS
AND SAVINGS, INC.; ERNEST PEIA and
ACTION DISTRIBUTORS, INC.,

Defendants.

Case No. 07-CV-2015-RTD

ORDER

Currently before the Court is the above-styled action. Plaintiff Tempur Sealy International, Inc, successor by name change to Tempur-Pedic, International, Inc. (“Tempur”) and defendants Close Out Surplus and Savings, Inc., Ernest Peia and Nelson Silva (collectively, the “CSS Defendants”) have agreed to an out-of-court settlement, the exact terms of which shall remain confidential (the “Settlement Agreement”). In order to comply with the terms of the Settlement Agreement, Tempur and the CSS Defendants jointly request that this Court direct the release to Tempur of the approximately 3,600 Tempur mattresses that Tempur and the CSS Defendants counted at the 2008 joint inspections (the “Tempur Mattresses”), which are subject to a preliminary injunction issued by this Court on March 28, 2007 (ECF No. 42), and that all parties, former parties and non-parties be directed to provide all reasonable access to Tempur to any and all facilities housing the Tempur Mattresses.

Pursuant to the joint request of Tempur and the CSS Defendants, and upon due consideration and all parties being in agreement, this Court GRANTS the parties’ motion (ECF

No. 299) and hereby orders the release of the Tempur Mattresses to Tempur, and further orders that all parties, former parties and non-parties provide all reasonable access to Tempur to any and all facilities housing the Tempur Mattresses in order to effect this directive, and further orders that Tempur is authorized to exercise all legal means to effect the release of the Tempur Mattresses to it. Tempur shall maintain the bond currently in place until a Stipulation of Dismissal is filed, at which time, this Court shall direct the release and return of such bond to Tempur.

IT IS SO ORDERED this 20th day of March, 2014.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge